

SEP 14 2006

**CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS**

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

ROBERT CARL PATTERSON,

Defendant - Appellant.

No. 05-30448

D.C. No. CR-04-05168-RDB

MEMORANDUM*

Appeal from the United States District Court
for the Western District of Washington
Franklin D. Burgess, District Judge, Presiding

Submitted September 11, 2006**

Before: PREGERSON, T.G. NELSON, and GRABER, Circuit Judges.

Robert Carl Patterson appeals from the sentence imposed following his jury-trial conviction for seven counts of receipt of child pornography and one

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** This panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

count of possession of child pornography. We have jurisdiction pursuant to 28 U.S.C. § 1291, and we affirm.

We review de novo the district court's interpretation of the Sentencing Guidelines, and for clear error the district court's factual findings. *See United States v. Jordan*, 256 F.3d 922, 926 (9th Cir. 2001).

Patterson contends that the 10 levels of enhancements imposed by the district court based upon relevant conduct must be supported by clear and convincing evidence because the enhancements more than doubled his applicable Guidelines range. We conclude that the clear and convincing standard of proof applies. *See id.* at 929. Upon review, however, we further conclude that the record supports the 10 levels of enhancements by clear and convincing evidence. *See United States v. Williamson*, 439 F.3d 1125, 1139-41 (9th Cir. 2006).

We reject Patterson's contention that an evidentiary hearing is required.

Appellee's January 27, 2006, motion for judicial notice is granted.

AFFIRMED.